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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,054	01/25/2002	Masashi Otsuki	111788	8751

7590 02/24/2004
Oliff & Berridge
P O Box 19928
Alexandria, VA 22320

EXAMINER

LE, HOA VAN

ART UNIT PAPER NUMBER

1752

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/048,054

Applicant(s)

OTSUKI ET AL.

Examiner

Hoa V. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) (15-18), (19-20), (1-6) and (8-10) are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of: Except 2000-128240
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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This application is before the examiner for consideration.

I. (1) In view of the complexity and multiple species as broadly and narrowly claimed, (2) too long abstract and (3) improper multiple dependent claims, (4) inventors being overseas, this Office action is made in order for applicants to have one month to response and make correction. No allowance will be indicated until all proper corrections are made.

II. Claims 7 and 11-14 are improper multiple dependent claims. Accordingly, they are not considered.

III. The record shows that the instant invention claims are form several priority foreign applications.

IV. There are four groups of claims (15-18), (19-20), (1-6) and (8-10) with broadest independent claim 15 as the main invention. They are not considered to be patentably different or distinct. Accordingly, no separate consideration or searched will be made. Should applicants show or urge otherwise in the next response to the Office action in order for it to be considered timely, a restriction will be made for the record as shown or urged.

V. (1) Claims (15-18), (19-20), (1-6) and (8-10) are generic to a plurality of disclosed patentably distinct species comprising many possible salts. Applicant is required under 35

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U.S.C. 121 to elect a single disclosed salt species for an initiation of a search, even though this requirement is traversed.

(2) Claims (15-18), (19-20), (1-6) and (8-10) are generic to a plurality of disclosed patentably distinct species comprising many possible phosphagens. Applicant is required under 35 U.S.C. 121 to elect a single disclosed phosphagen species for an initiation of a search, even though this requirement is traversed.

(3) Claims (15-18), (19-20), (1-6) and (8-10) are generic to a plurality of disclosed patentably distinct species comprising many possible aprotic organic solvents. Applicant is required under 35 U.S.C. 121 to elect a single disclosed aprotic organic solvent species for an initiation of a search, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

VI. A telephone call was made to Mr. James A. Oliff and Mr. Thomas J. Pardini on 19 February 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

They are not available.

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VII. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

VIII. Other issues have not been considered until a proper election is made and resolved.

IX. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:00 AM to 4:00 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385. The fax phone numbers of the examiner is 571- 273-1332. Since there is a newly electronic filing procedure for all initial communicating papers and all responses to an Office action, the examiner fax phone number is not for use to receive any fax in response to an Office action. Applicant is requested and required to send all initial communicating papers and all response to Office action to a central paper or fax receiving center for an electronic scanning procedure.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

(2) mail with a central mail receiving address:

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL
19 February 2004

HOA VAN LE
PRIMARY EXAMINER
